

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MARIBELLE VARGAS ROBINSON and ERIC ROBINSON, her husband

CASE NO:

Plaintiffs,

UNITED STATES OF AMERICA, UNITED STATES POSTAL SERVICE, and GILLIAN ERVIN, agent of the United States Postal Service sued in their individual capacities

JURY TRIAL DEMANDED

Defendants.

COMPLAINT

Plaintiffs by and through their undersigned counsel, for a Complaint against Defendants, respectfully allege as follows:

JURISDICTION

1. This action is brought pursuant to Federal Tort Claims Act, 28 U.S.C. § 2671.
2. On July 13, 2016, Plaintiff submitted a claim for damages as set forth below to the United States Postal Service (“USPS”) **Exhibit A**
3. Six months having elapsed, all conditions precedent to a Federal Tort Claims Act have been met.
4. Venue is properly within this District under 28 U.S.C. § 1402(b) as the acts complained of occurred in the District of New Jersey

PARTIES

5. Plaintiff is a resident of Ocean County, New Jersey.
6. Both the United States of America and its United States Postal Service are appropriate defendants under the Federal Tort Claims Act.

7. Defendant Gillian Ervin is a USPS agent and is sued in her individual capacity.

FACTS

8. On April 9, 2016, plaintiff Maribelle Vargas-Robinson was an occupant in a vehicle being operated and owned by her husband, Plaintiff, Eric Robinson, which was stopped in traffic on Bennetts Mills Road, in the Township of Jackson, County of Ocean, and State of New Jersey.

9. On April 9, 2016, defendant Gillian Ervin was the operator of a vehicle owned by the United States Government which was traveling West along Bennetts Mills Road, in the Township of Jackson, County of Ocean, and State of New Jersey, when said vehicle struck the back of plaintiffs' vehicle in the rear with the front bumper of defendants' vehicle.

10. The aforementioned sums of money were expended by plaintiff, Maribelle Vargas-Robinson, without, or in excess of, any abatement or reimbursement, from any source for any part of said sums.

11. The aforementioned sums were expended by plaintiff, Maribelle Vargas-Robinson, for the necessary and reasonable treatment of all injuries sustained by plaintiff, Maribelle Vargas-Robinson, and are causally related to defendants' actions herein described.

12. Defendant, Gillian Ervin, operated said vehicle and violated the provisions of *N.J.S.A. 39:4-96* (reckless driving), *N.J.S.A. 39:4-97*(careless driving), *N.J.S.A. 39:4-97.2* (operating a motor vehicle in an unsafe manner) and such other motor vehicle Statutes of the State of New Jersey and was otherwise inattentive, reckless, careless and/or negligent, failed to make proper observations of the roadway and traffic, failed to take proper care and precautions so as to avoid collision with the plaintiffs', Maribelle Vargas-Robinson and Eric Robinson, vehicle and was otherwise reckless, careless and/or negligent in the operation of her vehicle and did thereby cause her vehicle to collide with the plaintiff where Plaintiffs', Maribelle Vargas-Robinson and Eric Robinson, vehicle which said collision resulted in injuries to the plaintiff.

FIRST CAUSE OF ACTION

13. As a result of the aforesaid negligence, carelessness and recklessness of the defendants, the plaintiff, Maribelle Vargas-Robinson, was seriously injured, sustained great pain and suffering and mental anguish, does presently sustain the same and in the future will sustain the same, was obliged to expend large sums of money to affect a cure for the injures, pain and suffering and mental anguish which she sustained, and is presently obligated to expend large sums of money so as to affect a cure for the injuries which she sustained.

14. Under the Federal Tort Claims Act, defendants United States of America are liable for the above described actions of agent Ervin as she was acting within the scope of her employment as an agent for the United States of America.

SECOND CAUSE OF ACTION

15. As a result of the aforesaid negligence, carelessness and recklessness of the defendants, the plaintiff, Maribelle Vargas-Robinson, was seriously injured, sustained great pain and suffering and mental anguish, does presently sustain the same and in the future will sustain the same, was obliged to expend large sums of money to affect a cure for the injures, pain and suffering and mental anguish which she sustained, and is presently obligated to expend large sums of money so as to affect a cure for the injuries which she sustained.

16. Under the Federal Tort Claims Act, defendants United States Postal Service are liable for the above described actions of agent Ervin as she was acting within the scope of her employment as an agent for the United States Postal Service.

THIRD CAUSE OF ACTION

17. The actions and conduct of defendant, Gillian Ervin, was negligent, careless and reckless, and caused the plaintiff, Maribelle Vargas-Robinson serious injury. The plaintiff sustained great pain and

suffering and mental anguish, does presently sustain the same and in the future will sustain the same, was obliged to expend large sums of money to affect a cure for the injures, pain and suffering and mental anguish which she sustained, and is presently obligated to expend large sums of money so as to affect a cure for the injuries which she sustained

18. Plaintiff, Eric Robinson, was and is the lawful husband of Plaintiff, Maribelle Vargas-Robinson, and maintained a common domicile.

19. As a direct and/or proximate result of the reckless, careless and/or negligent acts and/or omissions of Defendants, Gillian Ervin, The United States of America, and The United States Postal Service, Plaintiff, Eric Robinson, was deprived of the society and consortium of his wife, Plaintiff, Maribelle Vargas-Robinson, and was required to provide special services for his wife Plaintiff, Maribelle Vargas-Robinson.

WHEREFORE, plaintiff, Maribelle Vargas-Robinson and Eric Robinson, demand judgment against defendants, The United States of America, The United States Postal Service, and Gillian Ervin, for damages together with interest and costs of suit.

DEMAND FOR A JURY TRIAL

Plaintiff hereby demand a jury trial as to all issues so triable as a matter of right, pursuant to F.R.C.P.38(b)(1) and 38(c).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand upon Defendants:

- a. actual, compensatory and statutory damages;
- b. pre and post-judgment interest as allowed by law;
- c. injunctive relief;
- d. an award of attorneys' fees as allowed by law;

- e. an award of taxable costs; and
- f. any and all such further relief as this Court deems just and proper.

Dated: January 17, 2018

Respectfully submitted,

s/Robert Gold, Esq.
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